

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

BRUCE ARNOLD TINER,

Case No. 3:19-cv-00033-MMD-WGC

v.

Plaintiff,

STATE OF NEVADA, *et al.*,

ORDER

Defendants.

On February 3, 2020, the Court directed Plaintiff to provide an updated address pursuant to Nevada Local Rule of Practice IA 3-1 as it appears that Plaintiff is no longer incarcerated. (ECF No. 7 at 1.) Further, because Plaintiff was released on parole, the Court ordered that Plaintiff either complete an application to proceed *in forma pauperis* by a non-prisoner or pay the full filing fee of \$400. (*Id.*) The Court gave Plaintiff thirty (30) days to comply with its order and cautioned that failure to comply may result in dismissal of this action with prejudice. (*Id.*) The 30-day period has now expired, and Plaintiff has not filed an updated address, completed an application to proceed *in forma pauperis*, paid the full filing fee, or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)

1 (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
2 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local
3 rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to
5 obey a court order, or failure to comply with local rules, the court must consider several
6 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need
7 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
8 favoring disposition of cases on their merits; and (5) the availability of less drastic
9 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*,
10 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 In the instant case, the Court finds that the first two factors, the public's interest in
12 expeditiously resolving this litigation and the Court's interest in managing the docket,
13 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
14 in favor of dismissal, since a presumption of injury arises from the occurrence of
15 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.
16 See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public
17 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
18 in favor of dismissal discussed herein. Finally, a court's warning to a party that his
19 failure to obey the court's order will result in dismissal satisfies the "consideration of
20 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;
21 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file an updated
22 address within thirty (30) days expressly stated: "IT IS ORDERED that Plaintiff will file
23 his updated address with this Court within **thirty (30) days** from the date of entry of this
24 order . . . IT IS FURTHER ORDERED that, if Plaintiff does not timely comply with this
25 order, the Court will dismiss this case with prejudice." (ECF No. 7 at 2.) (bolding in
26 original) Thus, Plaintiff had adequate warning that dismissal would result from his
27 noncompliance with the Court's order to file an updated address within (30) days.

28 It is therefore ordered that this action is dismissed with prejudice.

The Clerk of Court is directed to enter judgment accordingly and close this case.

DATED THIS 17th Day of November 2020.



MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE